

Certificate For Mexico-domiciled Carriers to Operate in the U.S. Commercial Zones

Mexico-domiciled Motor Carrier Operations Within U.S. Municipalities and Commercial Zones On the U.S./Mexico Border

Process For Obtaining a Certificate of Registration

Executive Summary

The process for Mexico-domiciled carriers to obtain a Certificate of Registration is contained in the Federal Motor Carrier Safety Administration's (FMCSA's) final rules entitled, "Revision of Regulations and Application Form for Mexico-Domiciled Motor Carriers to Operate in U.S. Municipalities and Commercial Zones on the U.S./Mexico Border" and "Safety Monitoring System and Compliance Initiative for Mexico-Domiciled Motor Carriers Operating in the United States". This paper attempts to summarize the information contained in the rules mentioned above into an easy-to-read overview of the process.

This process applies to Mexico-domiciled motor carriers who wish to register to operate only in the municipalities in the United States on the U.S./Mexico border or within the commercial zones of such municipalities. It also applies to Mexico-domiciled motor carriers that currently hold a Certificate of Registration from the former Interstate Commerce Commission, the Federal Highway Administration, the Office of Motor Carrier Safety or the FMCSA.

The process for obtaining a Certificate of Registration is comprised of three sub-processes:

- The application process,
- Operations under a provisional Certificate of Registration, and
- Operations under a permanent Certificate of Registration.

Application Process

The application process represents the first phase in a carrier's efforts to obtain a Certificate of Registration to operate within the border commercial zones. To successfully complete the application process, a carrier must correctly complete and file the OP-2 application package, accompanied by an application fee. Mexico-domiciled carriers that currently hold Certificates of Registration for commercial zone operation must re-apply with the FMCSA by October 20, 2003 in order to continue these operations. Carriers re-applying for a permanent Certificate of Registration will not be required to pay the \$300 application fee.

Provisional Certificate of Registration

FMCSA has implemented a safety monitoring system and compliance initiative to help determine whether Mexico-domiciled carriers conducting operations between points in Mexico and the border commercial zones comply with applicable safety regulations and conduct safe operations. The two main components of this safety monitoring system are:

- Safety assessment via safety audit (usually on site) and,
- Over-the-road highway performance monitoring via more frequent roadside inspections.

Permanent Certificate of Registration

Mexico-domiciled carriers that demonstrate acceptable levels of safety performance and pass the safety audit will be issued a permanent Certificate of Registration at the end of the 18-month provisional period. FMCSA will send written notification to the carrier indicating that the status of their registration has been changed from provisional to permanent. Once Mexico-domiciled carriers have a permanent Certificate of Registration they will fall under the same safety requirements and operational procedures applied to United States and Canadian carriers.

Process For Obtaining a Certificate of Registration

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It also applies to Mexico-domiciled motor carriers that currently hold a Certificate of Registration from the former Interstate Commerce Commission, the Federal Highway Administration, the Office of Motor Carrier Safety or the Federal Motor Carrier Safety Administration (FMCSA).

The process for obtaining a Certificate of Registration is comprised of three sub-processes:

- The application process,
- Operations under a provisional Certificate of Registration, and
- Operations under a permanent Certificate of Registration.

Each of these is described in more detail below.

Application Process

The application process represents the first phase in a carrier's efforts to obtain a Certificate of Registration to operate in border cities and their commercial zones. To successfully complete the application process, a carrier must correctly complete and file the OP-2 application package, accompanied by an application fee. Mexico-domiciled carriers that currently hold Certificates of Registration for commercial zone operation must re-apply with the FMCSA by October 20, 2003 in order to continue these operations. Carriers re-applying for a permanent Certificate of Registration will not be required to pay the \$300 application fee.

The following are the steps in the application process:

Obtaining a Copy of the OP-2 Application Package

Mexico-domiciled carriers can obtain a copy of the application package:

- Through the mail by calling FMCSA's Information Line (001-800-832-5660 from Mexico or 1-800-832-5660 from the U.S. or Canada) and requesting the OP-2 application package or
- Through the FMCSA web site on the Internet at www.fmcsa.dot.gov.

Attending a 1-Day Seminar on U.S. Safety Requirements (Optional)

FMCSA has developed a 1-day seminar on United States safety requirements for Mexico-domiciled carriers seeking U.S. operating authority or a Certificate of Registration. The seminar provides an overview of the U.S. safety regulations and process for obtaining U.S. operating authority or Certificates of Registration. The information provided at the seminar will be valuable to the carrier in completing the application form and preparing for the upcoming safety audit. Although participation in the seminar is not mandatory, carriers are strongly encouraged to attend. Information about the time and location of future seminars will be provided to the Mexican trucking associations, and the Secretaría de Comunicaciones y Transportes, and will be distributed to drivers at major border crossings.

Completing the Application

The application package is printed in English and Spanish, **but the carrier's responses must be written in English**. It is very important that the carrier provides all required information and completes the application in its entirety before mailing it back. Applications with missing information or fees will be returned to the carrier. Information provided on the application will be checked against a variety of U.S. and Mexican databases to ensure that the carrier is eligible for a Certificate of Registration.

Filing the Application

All applicants must submit the following documents and fee to FMCSA:

- **OP-2 Application:** An original and one copy of a completed Form OP-2 Application for Mexican Certificate of Registration for Foreign Motor Carriers and Foreign Motor Private Carriers Under 49 U.S.C. 13902, with all necessary attachments and statements.
- **Motor Carrier Identification Report (Form MCS-150):** A completed and signed Form MCS-150, Motor Carrier Identification Report. The MCS-150 provides basic information about the carrier's operation necessary to maintain FMCSA's carrier census database.
- **Designation of Agents for Process (Form BOC-3):** A carrier must provide a signed and dated Form BOC-3, Designation of Agents for Service of Process, **or** use a process service agent who will electronically file the BOC-3 within 90 days. The BOC-3 form must show the street addresses for the person(s) designated as the agent(s) for serving notices of enforcement action. A process agent must be designated in each state in which the applicant may operate. **The applicant may not begin operations unless the Form BOC-3 has been filed with the FMCSA.**
- **Filing Fee:** Except for those carriers that have already paid the fee, a filing fee of \$300 for **each** type of registration requested (e.g., contract, common or household goods) payable in U.S. dollars on a U.S. bank to the FMCSA by means of check, money order or credit card must accompany the application.

The completed application, fee and above-mentioned documents should be sent to either FMCSA's Trans-border Office (if paying with a credit card) or to FMCSA's Lockbox (if paying by check or money order). The addresses are as follows:

FMCSA Trans-Border Office

FMCSA Trans-border Office
P.O. Box 530870
San Diego, CA 92153

FMCSA Lockbox Addresses

FOR REGULAR DELIVERY:
Federal Motor Carrier Safety Administration
P. O. Box 100147
Atlanta, GA 30384-0147

FOR EXPRESS MAIL ONLY:
Bank of America, Lockbox 100147
6000 Feldwood Road
3rd Floor East
College Park, GA 30349

Providing Proof of Insurance

The applicant does not have to submit evidence of insurance with the application. However, if the applicant is issued a Certificate of Registration, the following must be on each of its vehicles when crossing the border:

- A current DOT Form MCS-90, and
- Evidence of insurance. The evidence of insurance must show either trip insurance coverage (24 hours or more coverage), or evidence of continuing insurance.

Approval of the OP-2 Application

Applicants that have fully met the requirements for completing their OP-2 applications will be notified in writing by FMCSA that their application has been approved. The carrier will also receive:

- A provisional Certificate of Registration that allows the carrier to operate in the commercial zones for a period of 18 months, and
- A USDOT number.

Displaying the USDOT Number

The USDOT number must be displayed on both sides of any vehicle intended for use in the U.S. before operations can begin.

Operating With A Provisional Certificate of Registration

FMCSA has implemented a safety monitoring system and compliance initiative to help determine whether Mexico-domiciled carriers conducting operations between points in Mexico and the border commercial zones comply with applicable safety regulations and conduct safe operations. The two main components of this safety monitoring system are:

- A safety assessment via a safety audit (usually on site), and
- Safety performance monitoring on U.S. highways via more frequent roadside inspections. Each of these elements is discussed below.

FMCSA SAFETY AUDIT

All Mexico-domiciled carriers seeking a permanent Certificate of Registration to operate in the border commercial zones must undergo and pass an FMCSA-conducted safety audit. The safety audit consists of a review of the carrier's safety data, a review of requested motor carrier documents, and an interview session with the motor carrier's safety official by a trained safety auditor. The following steps describe this aspect of the application process.

Preparing for the Audit

Mexico-domiciled carriers seeking a permanent Certificate of Registration to operate in the border commercial zones must receive and **pass** an FMCSA Safety Audit within the 18-month provisional period. FMCSA recommends that a Mexico-domiciled carrier do the following things to prepare for the audit:

- Obtain a copy of FMCSA's Educational and Technical Assistance (ETA) Package through the Internet at www.fmcsa.dot.gov/factsfigs/eta/index.html (English) or [www.fmcsa.dot.gov/spanish/eta/ETA\(SP\)_index.html](http://www.fmcsa.dot.gov/spanish/eta/ETA(SP)_index.html) (Spanish).
- Attend the 1-day Mexico-domiciled Carrier Seminar
- Become familiar with the Federal Motor Carrier Safety Regulations (FMCSRs) and Hazardous Materials Regulations (HMRs) (if appropriate). These regulations are available through the Internet at www.fmcsa.dot.gov/rulesregs/fmcsrhome.htm

Scheduling the Audit

The FMCSA Division Office assigned to the carrier's business location will contact the carrier to schedule a mutually agreeable time and place for conducting the audit. FMCSA may conduct the audit on site at the carrier's place of business or at another mutually agreeable location. A letter will be sent to the carrier documenting when and where the safety audit will be held.

Participating in the Audit

The objective of the safety audit is to both educate the carrier on compliance with the FMCSRs and HMRs and to determine areas where the carrier might be deficient in terms of compliance. The safety auditor will use a series of questions regarding the carrier's safety management practices and safety performance to ensure that all applicable acute and critical areas of the FMCSRs and HMRs are addressed. Areas covered include the qualification of drivers, driving a motor vehicle, hours of service, inspection, repair, and maintenance, transporting and marking hazardous materials, controlled substance and alcohol use and testing, commercial driver's license standards, and financial responsibility. At the end of the audit, the carrier will receive a report listing any deficiencies that may have been found along with recommendations for correcting those deficiencies. FMCSA will notify the carrier of the results of the audit (Pass or Fail) within 45 days after completion of the audit.

Passing the Audit

If the safety audit reveals that the carrier is in compliance with the FMCSRs and has basic safety management controls in place that are functioning adequately, the carrier will receive a passing score. The Mexico-domiciled carrier's provisional Certificate of Registration will remain in place and its performance will be closely monitored by the FMCSA until the end of the 18-month period.

Failing the Audit

If a carrier fails the audit due to severe safety problems, the lack of adequate safety management controls, and/or non-compliance with the FMCSRs, FMCSA will notify the carrier that it will suspend its registration effective 15 days after the service date of the notice unless the carrier demonstrates, within 10 days, that the safety audit contained material error. If the carrier fails to show a material error in the safety audit, FMCSA will then issue an Order suspending the carrier's provisional Certificate of Registration and notify the carrier that unless it presents evidence of necessary corrective action within 30 days from the service date of the Order, the carrier's provisional Certificate of Registration would be revoked.

ROADSIDE PERFORMANCE MONITORING

During the 18-month period following issuance of a provisional Certificate of Registration, the FMCSA will track and assess the safety performance of Mexico-domiciled carriers on U.S. highways through a comprehensive roadside performance monitoring system. The major aspects of that system are presented below.

Using Expedited Action Letters to Alert Carriers to Safety Problems

Mexico-domiciled motor carriers that commit certain violations discovered as part of roadside inspections or other means may be subject to an expedited safety audit (if the carrier has not already had one), a compliance review or ***issued an expedited action letter*** identifying the violations and directing the carrier to submit a written response demonstrating corrective action. The specific violations that may generate an expedited action letter include:

- Using drivers not possessing, or operating without a valid Commercial Driver's License (CDL) or Licencia Federal de Conductor (LF);
- Operating vehicles that have been placed out-of-service (OOS) for Commercial Vehicle Safety Alliance (CVSA) OOS violations without making required repairs;
- Involvement in, due to carrier act or omission, a hazardous materials (HM) incident within the U.S. involving highway route controlled quantity of certain HM;
- Involvement in, due to carrier act or omission, two or more hazardous materials incidents within the U.S.;
- Using a driver who tests positive for drugs or alcohol or who refuses to submit to required drug or alcohol tests;
- Operating within the U.S. a motor vehicle that is not insured as required by 49 CFR Part 387;
- Having a driver or vehicle OOS rate of at least 50% based upon three inspections within a consecutive 90-day period.

Failure to respond to an agency request for a written response demonstrating corrective action within 30 days will result in suspension of the carrier's provisional Certificate of Registration until the required showing of corrective action is submitted to the FMCSA. Expedited safety audits and the use of expedited action letters will only apply during the 18-month monitoring period.

Operating With A Permanent Certificate of Registration

Mexico-domiciled carriers that demonstrate acceptable levels of safety performance and pass the safety audit will be notified that their Certificate of Registration has become permanent at the end of the 18-month provisional period. Once Mexico-domiciled carriers have been issued permanent Certificates of Registration, they will fall under the same safety requirements and operational procedures applied to U.S. and Canadian carriers.